

When recorded return to:
Robert Erven Brown, p.a.
4801 E. Greenway Rd., Ste. 200
Scottsdale, AZ 85254-1685

**CONSENT OF CITY OF COTTONWOOD TO
ASSIGNMENT OF TENANT RIGHTS BY COTTONWOOD AIRPARK L.C.
IN LOT 107 OF
COTTONWOOD AIRPARK**

This "Consent" is legally binding between the parties described below as of
JUNE 23, 1998 (the "Effective Date").

BACKGROUND

The Ground Lease

- A. The City of Cottonwood, formerly known as the Town of Cottonwood, an Arizona municipality, is the "Landlord" under a Ground Lease Agreement dated May 5, 1983 to encourage economic development of the Cottonwood Airport industrial property and to encourage economic development within the City of Cottonwood.
- B. Cottonwood Airpark L.C. ("CALC") is the successor in interest to Cottonwood Airpark I, L.C. as successor in interest to Cottonwood Airpark, Inc., which was originally named as "Tenant" under the Ground Lease Agreement.
- C. The Ground Lease Agreement was amended by the First Amendment dated November 30, 1983, the Second Amendment dated March 12, 1985, the Third Amendment dated August 21, 1985, the Fourth Amendment dated February 7, 1989 (note that the proposed Fifth Amendment dated January 1, 1993 was never signed), the Sixth Amendment dated July 5, 1994, and the Seventh Amended dated September 16, 1997. The Ground Lease Agreement and all Amendments are collectively referred to as the "Ground Lease."
- D. A Memorandum of the Ground Lease dated May 23, 1983 was recorded January 4, 1984 in Book 1597, pages 576-581 and thereafter corrected by an instrument recorded July 1, 1985 in Book 1734, pages 11-15 of the records of the Yavapai County Recorder (the "Memorandum of Ground Lease").
- E. Cottonwood Airpark, L. C. ("CALC") now wishes to make an assignment to **David P. Mongini and Sheila M. Mongini**, husband and wife ("Mongini") of some of the rights possessed by CALC under its Ground Lease with the City of Cottonwood, i.e., to Lot 107 (the "Lot"). Mongini will then directly lease the Lot from the Landlord and CALC will be released from all liability to the Landlord arising from the Ground Lease of the Lot.
- F. The Ground Lease requires the written consent of the City of Cottonwood to the assignment by CALC of its rights as Tenant under the Ground Lease to Verde. It appears that the best interests of the City will be served by permitting Mongini to operate a business on the Lot, thus increasing the development and tax base for the City of Cottonwood. (The Lot and any improvements constructed thereon are collectively referred to as the "Property.") Thus, the City of Cottonwood has indicated that it will grant its consent to this transaction by execution and delivery of this "Consent."
- G. Cottonwood Airpark L.C. is referred to as "CALC" or as "Seller. "Mongini" is referred to as "Buyer."

- H. The Ground Lease requires the written consent of the City of Cottonwood to the Assignment by Cottonwood Airpark L.C. of its rights as Tenant under the Ground Lease to Buyer. It appears that the best interests of the City will be served by permitting this Assignment, thus the City of Cottonwood now wishes to grant its consent to this transaction.

AGREEMENT

Now, therefore, for valuable consideration received, the parties agree that:

1. **Incorporation by Reference.** The facts, circumstances, descriptions and definitions contained in the Background section of this Assignment are hereby incorporated by reference as an integral part of this Consent.
2. **Assignment.** As of the Effective Date, Cottonwood Airpark L.C. has assigned and transferred to Buyer all of CALC's rights as Tenant to Lot 107 arising under the Ground Lease. CALC specifically reserved all other rights to all other parcels which it possesses as Tenant under the Ground Lease.
3. **Acceptance of Assignment and Indemnity.** By signing a separate document, Buyer accepted the assignment of all Tenant's rights, duties, obligations and undertakings under the Ground Lease as to the Lot and agreed to fully and faithfully perform all duties, obligations and responsibilities arising thereunder.
4. **Consent.** The City of Cottonwood hereby consents to the Assignment by CALC to Buyer of its rights to the Lot under the Ground Lease.
5. **Release.** As of the Effective Date, the City as Landlord under the Ground Lease hereby:
 - 5.1 certifies that formal approval of the Assignment to Buyer is not required pursuant to Section 12 of the Ground Lease (as noted in the Seventh Amendment thereto);
 - 5.2 acknowledges and agrees that CALC has assigned its rights, duties and obligations to the Lot to Buyer, all as set forth in the "Assignment" of even date herewith. Landlord agrees to look solely to Buyer for collection of all rents and other amounts arising from the Ground Lease for the Lot after the Effective Date of this Consent and releases CALC (and its predecessors) as "Tenant" from all obligations or duties arising under the Ground Lease relative to the Lot;
 - 5.3 acknowledges receipt of all rent and other amounts owed by Tenant to Landlord under the Ground Lease as of the Effective Date;
 - 5.4 ratifies, affirms and confirms the validity of all other terms and conditions of the Ground Lease as defined above;
 - 5.5 confirms that there are no uncured defaults or breaches by Tenant under the Ground Lease;
 - 5.6 agrees that the "Rent" for the Lot is agreed to be \$701.32 per year with the next payment from Buyer to be due on JANUARY 1, 1999; For Jan 1, 1998 - DEC. 31, 1998 B4n
 - 5.7 agrees that the property taxes, if any, for the Lot shall be separately assessed and paid by Buyer;
 - 5.8 agrees that the failure of Buyer to pay rent, to pay property taxes, if any, or to otherwise fully comply with the terms of the Ground Lease shall be considered a default by Buyer only as to the Lot and shall not be considered as a default by Tenant under the Ground Lease affecting any of the other rights of CALC or affecting any other property leased by CALC. Landlord agrees to exercise its remedies for a default by Buyer as provided under the Ground Lease solely against the Lot;
 - 5.9 agrees that in the event of a default by CALC under the Ground Lease, Landlord will exercise its rights solely against CALC and will not construe a default by CALC as a default by Buyer under the Lot. So long as Buyer pays its rent and timely performs all other obligations as required under the Lot, any default by CALC regarding its other obligations under the Ground Lease shall not be construed as a default by Buyer;

5.10 agrees that the obligation of CALC to perform certain development work specified in the Ground Lease does not apply to Buyer. The parties acknowledge that the Lot is exempt from any further development requirements.

5.11 acknowledges that Buyer may encumber the Lot to construct certain improvements which will be subject to an encumbrance in favor of a lender. Landlord agrees to provide notice to the lender in the event of a default by Buyer under the Ground Lease pertaining to the Lot pursuant to separate documents to be submitted by the lender to Landlord for review and approval.

5.12 acknowledges that Buyer shall independently comply with the insurance provisions of Section 14 of the Ground Lease;

5.13 acknowledges that, pursuant to Section 20 of the Ground Lease, the address for Buyer as tenant under the Lot is:

6. **Ratification of Ground Lease.** The terms and conditions contained in the Ground Lease are hereby ratified, confirmed and continue in full force and effect. The Term Commencement Date of December 31, 1983 began a 25 year Term as to certain portions of the Lease and a 50 year Term as to certain other portions. The Lease also granted options for renewal. The parties intend to ratify and affirm the length of the Term and of the option rights to the maximum extent allowed at law or in equity. There are no amendments, modifications, supplements or other agreements or understandings except for those contained in the Ground Lease. Landlord acknowledges that CALC as Tenant has paid all rent, fully performed all of its obligations and is in good standing under the Ground Lease.

7. **Further Documentation.** Each party agrees in good faith to execute such further or additional documents as become necessary or appropriate to carry out the intent and purpose of this Consent.

8. **Counterparts and Facsimiles.** This Consent may be executed by facsimile or in any number of counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument.

This Consent is legally binding as of the Effective Date regardless of the actual date of signing.

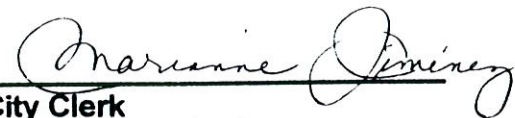
The undersigned Representatives of the City of Cottonwood hereby personally affirm and certify that there has been full compliance with all legal requirements for approval by the City and do further affirm and certify that this Consent is hereby approved, ratified and accepted by the City of Cottonwood.

THE CITY OF COTTONWOOD

By  _____

City Manager

Date: 6.23.98

By  _____
City Clerk

Date: 6.23.98

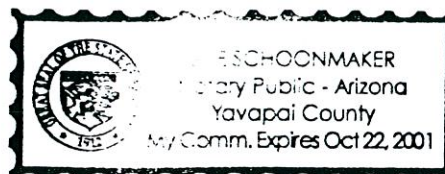
STATE OF ARIZONA)
) ss.
County of Yavapai)

Before me, the undersigned Notary Public, on this 23rd day of June, 1998, personally appeared Marianne Jimenez, the City Clerk of the City of Cottonwood, who is personally known to me (or satisfactorily proved himself/herself) to be the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

Sue Schoonmaker
Notary Public

My Commission Expires:

October 22, 2001



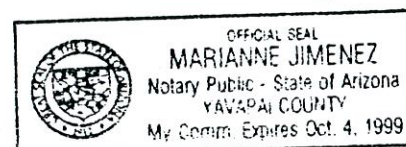
STATE OF ARIZONA)
) ss.
County of YAVAPAI)

Before me, the undersigned Notary Public, on this 23rd day of JUNE, 1998, personally appeared BRIAN MICKELSEN, the City Manager of the City of Cottonwood, who is personally known to me or satisfactorily proved himself/herself) to be the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

Marianne Jimenez
Notary Public

My Commission Expires:

10-4-99



Approved as to form and content:
MAGNUM, WALLS, STOOPS & WARDEN
City attorneys for the City of Cottonwood

By [Signature]

mg 6/22/98

STATE OF ARIZONA)
) ss.
County of _____)

Before me, the undersigned Notary Public, on this _____ day of _____, 1998, personally appeared _____ of Magnum, Walls, Stoops & Warden, the attorney for the City of Cottonwood, who is personally known to me (or satisfactorily proved himself/herself) to be the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

Notary Public

My Commission Expires:

When recorded return to:
Robert Erven Brown, p.a.
4801 E. Greenway Rd., Ste. 200
Scottsdale, AZ 85254-1685

**ASSIGNMENT OF TENANT RIGHTS IN
LOT 107 OF
COTTONWOOD AIRPARK**

This "Assignment" is legally binding between the parties described below as of _____, 1998 (the "Effective Date").

BACKGROUND

The Ground Lease

- A. The City of Cottonwood, formerly known as the Town of Cottonwood, an Arizona municipality, is the "Landlord" under a Ground Lease Agreement dated May 5, 1983 to encourage economic development of the Cottonwood Airport industrial property to further economic development within the City of Cottonwood.
- B. Cottonwood Airpark L.C. is the successor in interest to Cottonwood Airpark I, L.C. as successor in interest to Cottonwood Airpark, Inc., which was originally named as "Tenant" under the Ground Lease Agreement.
- C. The Ground Lease Agreement was amended by the First Amendment dated November 30, 1983, the Second Amendment dated March 12, 1985, the Third Amendment dated August 21, 1985, the Fourth Amendment dated February 7, 1989, and the proposed Fifth Amendment dated January 1, 1993 which was never signed, the Sixth Amendment dated July 5, 1994 and the Seventh Amendment date dated July 5, 1994. The Ground Lease Agreement and all Amendments are collectively referred to as the "Ground Lease."
- D. A memorandum of the Ground Lease dated May 23, 1983 was recorded January 4, 1984 in Book 1597, pages 576-581 and thereafter corrected by an instrument recorded July 1, 1985 in Book 1734, pages 11-15 of the records of the Yavapai County Recorder (the "Memorandum of Ground Lease").
- E. Cottonwood Airpark, L. C. ("CALC") now wishes to make an assignment to David P. Mongini and Sheila M. Mongini, husband and wife ("Mongini") of some of the rights possessed by CALC under its Ground Lease with the City of Cottonwood, i.e., to Lot 107 (the "Lot"). Mongini will then directly lease the Lot from the Landlord and CALC will be released from all liability to the Landlord arising from the Ground Lease of the Lot.
- F. The Ground Lease requires the written consent of the City of Cottonwood to the assignment by CALC of its rights as Tenant under the Ground Lease to Mongini. It appears that the best interests of the City will be served by permitting Mongini to operate a business on the Lot, thus increasing the development and tax base for the City of Cottonwood. (The Lot and any improvements constructed thereon are collectively referred to as the "Property.") Thus, the City of Cottonwood has indicated that it will grant its consent to this transaction by execution and delivery of the attached "Consent."
- G. Cottonwood Airpark L.C. is referred to as "CALC" or as "Seller." Mongini is referred to as "Buyer."

ASSIGNMENT

Now, therefore, for valuable consideration received, the parties agree that:

1. **Incorporation by Reference.** The facts, circumstances, descriptions and definitions contained in the Background section of this Assignment are hereby incorporated by reference as an integral part of this Assignment, as are all Exhibits.

2. **Assignment.** As of the Effective Date, CALC hereby sets over, assigns and transfers to Mongini all of CALC's rights as Tenant to Lot 107 arising under the Ground Lease and the improvements located thereon, if any, except as otherwise provided herein. CALC hereby specifically reserves all other rights to all other parcels which it possesses as Tenant under the Ground Lease.

3. **Acceptance of Assignment and Indemnity.** By signing below, Mongini hereby accepts the assignment of all Tenant's rights, duties, obligations and undertakings under the Ground Lease as to the Lot and agrees to fully and faithfully perform all duties, obligations and responsibilities arising thereunder. Buyer hereby agrees to indemnify, defend and hold CALC, its Members, Managers, attorneys and accountants harmless for, from and against all costs, claims or charges arising from the Ground Lease relating to the Lot or from the Property arising after the Effective Date of this Assignment.

4. **Legal Fees.** If either party finds it necessary to employ legal counsel or to bring an action at law, at equity, or other proceeding against the other party to enforce or interpret any of the terms, covenants or conditions of this Assignment, then the prevailing party shall be paid its costs and actual attorneys' fees by the losing party, including those incurred in mediation, arbitration, on appeal, if any, and those incurred in Federal bankruptcy court. If judgment is secured by the prevailing party, then all costs and fees shall be included in that judgment which judgment shall bear interest at 12% per year until paid in full.

5. **No Other Obligations.** Except as stated herein, there are no other warranties, representations, promises or obligations on the part of CALC to Buyer. The Property, the Improvements, if any, located thereon and the Ground Lease are transferred in "as-is" and "where-is" condition. This transfer and assignment is made without warranty or representation of any kind or nature by CALC or its agents. Buyer is relying on its own investigation and evaluation for the suitability of the property for its uses. No statements or promises concerning the condition of the Improvements, the suitability of the Improvements for the intended use, the condition of the air, water, ground, economic conditions, future development of the Airpark, air service, or any other fact have been made by any employee or agent of Parkway Design, DevMan Company, L.C., or any other agent, member or representative of CALC. Buyer is relying solely and exclusively on its own independent evaluation and investigation regarding the acquisition of this Property. Buyer acknowledges that it has received a true and complete copy of the Ground Lease as amended and as defined above and that it must deal directly with the City as its Landlord for all matters arising after the Effective Date.

6. **Notices.** All notices, consents, approvals, waivers or other items given or required to be given by one party to the other shall be in writing; these "Notices" shall be delivered by one of these methods:

- a. If personally delivered, then notice is effective on the next business day following receipt; or
- b. If delivered by mail, Notice is deemed given and delivered 72 hours after being deposited in any duly authorized United States mail depository, postage prepaid, registered or certified, return receipt requested; or
- a. If sent by a reputable overnight courier service (e.g., Federal Express), addressed as set forth below, the Notice shall be deemed effective on the next business day following receipt, as evidenced by the receipt obtained by the courier service.

- b. If sent by telecopier to the phone number listed below, then Notice shall be deemed delivered on the next business day following receipt, as evidenced by a successful transmission report.
- c. Notice to an attorney is not complete until the next business day following actual receipt; addresses and fax numbers for an attorney should be confirmed by checking with the Arizona State Bar Association in Phoenix, Arizona. Notice addresses shall be changed by providing the new address to all of the other parties in conformance with these provisions.

All Notices shall be addressed as indicated below:

If to CALC : % William E. Molloy
 DevMan Company, L.C.
 1530 West Indian School Road
 Phoenix, AZ 85015.
 Telecopier: (602) 264-9849

With a copy to: Robert Erven Brown, p.a.
 4535 East Hearn Road
 Phoenix, AZ 85032
 Telecopier: (602) 992-6966

If to Mongini: _____

 Telecopier: _____

7. **Further Documentation.** Each party agrees in good faith to execute such further or additional documents as become necessary or appropriate to carry out the intent and purpose of this Agreement.

8. **Counterparts and Facsimiles.** This Agreement may be executed by facsimile or in any number of counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument.

**COTTONWOOD AIRPARK L.C., an
 Arizona limited liability company by its
 Members:**

- 1. MFW, L.L.P., an Arizona limited liability partnership (formerly known as FMW Development Company)

By _____

- 2. _____
 Jack Seitz

BUYER:

 David P. Mongini, husband of Sheila M. Mongini

 Sheila M. Mongini, wife of David P. Mongini

STATE OF ARIZONA)

) ss.

County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1998, personally appeared _____, an authorized signatory of Cottonwood Airpark LC, who is personally known to me (or satisfactorily proved himself/herself) to be the person who executed the foregoing, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

Notary Public

My Commission Expires:

STATE OF _____)

) ss.

County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1998, personally appeared Jack Seitz who is personally known to me (or satisfactorily proved himself) to be the person who executed the foregoing, acknowledging that he executed the same for the purposes therein contained, being authorized so to do.

Notary Public

My Commission Expires:

STATE OF _____)

) ss.

County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1998, personally appeared David P. Mongini who is personally known to me (or satisfactorily proved himself) to be the person who executed the foregoing, acknowledging that he executed the same for the purposes therein contained, being authorized so to do.

Notary Public

My Commission Expires:

STATE OF _____)

) ss.

County of _____)

Before me, the undersigned Notary Public, on this ____ day of _____, 1998 personally appeared Sheila M. Mongini, who is personally known to me (or satisfactorily proved herself) to be the person who executed the foregoing, acknowledging that she executed the same for the purposes therein contained, being authorized so to do.

Notary Public

My Commission Expires:

**RESOLUTION OF COTTONWOOD AIRPARK L.C.,
an Arizona limited liability company**

The undersigned, being all of the Members of Cottonwood Airpark L.C., do hereby unanimously resolve that:

1. Any one of William B. Fulkerson, William E. Molloy, or C. W. Waddoups, Jr., may sign documents for and on behalf of the Company to sell and assign all of the Company's interest in the Ground Lease with the City of Cottonwood regarding Lot 107 of Cottonwood Airpark.
2. The undersigned waive any requirements to the contrary contained in the Operating Agreement and specifically acknowledge and agree that this resolution is intended to amend and nullify any provisions to the contrary contained in the Operating Agreement.

This resolution is legally binding from the _____ day of _____, 1998, regardless of the actual date of signing and has neither been amended nor revoked.

**COTTONWOOD AIRPARK L.C., an Arizona
limited liability company by its Members
Jack Seitz and MFW, L.L.P.:**

1. _____
Jack Seitz
- 2: MFW, L.L.P., an Arizona limited liability
partnership (formerly FMW Development
Company, an Arizona General
Partnership) by its Partners C W
Corporation and FM Development
Company, L.L.P.:

- a. C W CORPORATION, an Arizona
corporation

By _____
C. W. Waddoups, Jr., President
P O Box 246
Cornville, AZ 86325

- b. FM DEVELOPMENT COMPANY,
L.L.P. an Arizona limited liability
partnership (formerly FM
Development, an Arizona general
partnership) by its general
partners William E. Molloy Family
Trust, UTA 3/27/86 and CB
Investments:

- (1) WILLIAM E. MOLLOY FAMILY
TRUST, UTA 3/27/86

By _____
William E. Molloy, Trustee
1530 W. Indian School Rd.
Phoenix, AZ 85015

- (2) CB INVESTMENTS, formerly
an Arizona general
partnership, now a d/b/a for:

William B. Fulkerson, Trustee of
the Fulkerson Family Trust UTA
4/27/78, as amended
200 Shadow Valley Ranch Road
Prescott AZ 86301